

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cr-221-MOC
3:22-cr-150-MOC**

UNITED STATES OF AMERICA)
)
)
v.)
)
DANIEL THOMAS BROYLES, SR.,)
)
)
Defendant.)
_____)

AMENDED ORDER

THIS MATTER is before the Court on Defendant Daniel Thomas Broyles’ (“Defendant”) pro se motion to correct the calculation of his credit for time served. (3:16-cr-221-MOC, Doc. No. 658; 3:22-cr-150-MOC, Doc. No. 41).

I. BACKGROUND

On August 18, 2016, Defendant was charged with sixteen felony counts in a securities investment fraud scheme related to Niyato Industries, Inc. (“Niyato”) for mail and wire fraud conspiracy, mail fraud, wire fraud, and money laundering. After learning of the indictment, Defendant relocated to Mexico. On March 5, 2019, Defendant was indicted on twenty-one felony counts in a separate securities fraud scheme involving the securities of EarthWater Ltd. (“EarthWater”), in the Northern District of Texas. United States v. Comu, et al., 3:19-cr-112 (N.D. Tex. Mar. 5, 2019). That case was subsequently transferred to this district.

Defendant was arrested in Mexico on January 5, 2021. The Government extradited Defendant from Mexico, and the U.S. Marshals arrested him on March 8, 2022. On June 21, 2022, the parties entered a plea agreement to simultaneously resolve both the Niyato and EarthWater indictments. On January 4, 2024, the Court sentenced Defendant to 48 months

imprisonment.

On August 29, 2024, Defendant filed the pending motion, seeking to correct the calculation of his credit for time served. (3:16-cr-221-MOC, Doc. No. 658; 3:22-cr-150-MOC, Doc. No. 41). Defendant contends that this Court agreed to award time served from July 28, 2021, to March 8, 2022, while he was in a Mexican jail awaiting extradition, but that the United States Bureau of Prisons (“BOP”) has not credited him for that time. On September 10, 2024, the Government filed a response in which it maintained its position from sentencing: that Defendant is eligible for credit for time served for the period from July 28, 2021, to March 8, 2022. (3:16-cr-221-MOC, Doc. No. 660; 3:22-cr-150-MOC, Doc. No. 43).

II. DISCUSSION

Credit for a defendant’s service of a term of imprisonment is governed by 18 U.S.C. 3585(b), which states:

(b) Credit for Prior Custody.—A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences—(1) as a result of the offense for which the sentence was imposed ... that has not been credited against another sentence.

18 U.S.C. § 3585(b)(1); see also 18 U.S.C. § 4105(a)–(b) (“an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General ... shall be given credit toward service of the sentence for any days ... spent in custody in connection with the offense”). Other Courts have credited defendants for time served in a foreign jurisdiction pending extradition to the United States under 18 U.S.C. § 3585(b). See, e.g., Hughes v. Slade, 347 F. Supp. 2d 821, 825 (C.D. Cal. 2004) (crediting defendant for time served in Mexico).

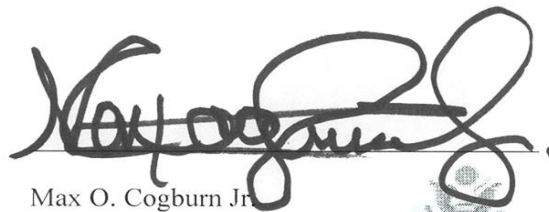
At Defendant’s sentencing hearing, the parties stipulated that Mexican authorities served Defendant with an arrest warrant for extradition to the United States on July 28, 2021. The Government extradited Defendant from Mexico for the offenses for which the sentence was

imposed. The U.S. Marshals arrested Defendant and took him into federal custody on March 8, 2022. Therefore, Defendant is eligible for credit toward the service of a term of imprisonment for the period July 28, 2021, through March 8, 2022, pursuant to 18 U.S.C. § 3585(b)(1).

ORDER

IT IS, THEREFORE, ORDERED that Defendant's motion to correct the calculation of his time served, (3:16-cr-221-MOC, Doc. No. 658; 3:22-cr-150-MOC, Doc. No. 41), is **GRANTED**, and that he is to be given credit for time served from July 28, 2021, through March 8, 2022.

Signed: September 24, 2024



Max O. Cogburn Jr.
United States District Judge